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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISIONIn re DONALE EUGENE COPES,
Petitioner,

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No. C 12-2015 PJH (PR)

ORDER OF DISMISSAL

This case was opened when Copes wrote a letter to the court. In an effort to protect his rights, the clerk treated it as an attempt to open a new civil rights case.

The day the case was opened the clerk sent Copes two notices, one that he had not paid the filing fee or applied for leave to proceed in forma pauperis ("IFP"), and the other that he had not filed a complaint. Included with the notices were the court's form for IFP applications and a prisoner civil rights form packet. Copes returned a completed IFP form, but not a complaint.

In an order entered on June 18, 2012, the court concluded that because this is in fact a habeas case the complaint form would not be suitable and might have confused Copes. The clerk was ordered to send Copes the court's form packet for habeas cases with his copy of the order. Copes was ordered to file a habeas petition by July 16, 2012, or the case would be dismissed. He has not filed a petition. This case therefore is **DISMISSED** without prejudice. Because the case was opened in error, leave to proceed in forma pauperis (document number 5 on the docket) is **DENIED**. No fee is due. The clerk shall close the file.

IT IS SO ORDERED.

Dated: August 2, 2012.



PHYLLIS J. HAMILTON
United States District Judge